

ANALYSIS OF AMENDED BILL

Author: Battin Analyst: Kristina North Bill Number: AB 2219
Related Bills: _____ Telephone: 845-6978 As Amended: May 6, 1998
Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Computer Technology Contribution To Elementary or Secondary Education
Organization Deduction

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as
introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as
introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER – See comments below.

SUMMARY OF BILL

Under the Bank and Corporation Tax Law (B&CTL), this bill would partially conform to federal law, as modified, to allow an augmented deduction for C corporation contributions of computer technology or equipment to qualified elementary or secondary educational institutions.

SUMMARY OF AMENDMENT

The May 8, 1998, amendment replaces the credit language in the bill as amended April 27, 1998, with the deduction language as discussed in this analysis.

EFFECTIVE DATE

This bill would apply to income years beginning on or after January 1, 1998, and before January 1, 2000.

LEGISLATIVE HISTORY

SB 1496 (1998), SB 455 (Stats, 1997, Ch. 611)

BACKGROUND

The B&CTL, in general, conforms to the Internal Revenue Code (IRC) either by incorporating the IRC by reference or by stand alone language which mirrors the

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department/Legislative Director Date
Gerald H. Goldberg 5/18/98

Agency Secretary Date

By: Date:

federal provision. When applying the IRC for state purposes, the IRC as of the "specified date" of January 1, 1997, must be used, unless a specific provision provides otherwise.

SPECIFIC FINDINGS

Generally, under **federal and state law**, a taxpayer who itemizes deductions is allowed to deduct the fair market value of property contributed to a charitable organization. However, in the case of a charitable contribution of inventory or other ordinary-income property, short-term capital gain property, or certain gifts to private foundations, the amount of the deduction is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.

The amount of the deduction allowable for a taxable or income year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer. Corporations are entitled to claim a deduction for charitable contributions, generally limited to 10% of their taxable income (computed without regard to the contributions) for the year.

Federal law provides augmented deductions for certain corporate contributions of inventory property for the care of the ill, the needy, or infants, and certain corporate contributions of scientific equipment constructed by the taxpayer, provided the original use of such donated equipment is by the donee for research or research training in the United States in physical or biological sciences. Under these special rules, the amount of the augmented deduction available to a corporation making a qualified contribution is equal to its basis in the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold. However, the augmented deduction cannot exceed twice the basis of the donated property. S corporations are not eligible donors for purposes of these special rules. Eligible donees are limited to post-secondary educational institutions, scientific research organizations, and certain other organizations that support scientific research.

The **Taxpayer Relief Act (TRA) of 1997** expanded the list of qualified contributions that qualify for the augmented deduction under federal law. Under the TRA of 1997, qualified contributions include gifts of computer technology and equipment (i.e., computer software, computer or peripheral equipment, and fiber optic cable related to computer use) to be used within the United States for educational purposes in any of grades K through 12. This provision is effective for contributions made in taxable years beginning after December 31, 1997, and before January 1, 2000.

Eligible donees are: (1) any educational organization that normally maintains a regular faculty and curriculum and has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly carried on; and (2) charitable or educational entities that are organized primarily for purposes of supporting elementary and secondary education. A private foundation also is an eligible donee, provided that, within 30 days after receipt of the contribution, the private foundation contributes the property to an eligible donee described above.

Qualified contributions are limited to gifts made no later than two years after the date the taxpayer acquired or substantially completed the construction of the donated property. In addition, the TRA of 1997 clarifies that the original use of the donated property must commence with the donor or the donee. Accordingly, qualified contributions generally are limited to property that is no more than two years old. Such donated property could be computer technology or equipment that is inventory or depreciable trade or business property in the hands of the donor. The TRA of 1997 permits payment by the donee organization of shipping, transfer, and installation costs. The special treatment applies only to donations made by C corporations. S corporations, personal holding companies, and service organizations are not eligible donors.

In the case of contributions made through private foundations, the TRA of 1997 permits the payment by the private foundation of shipping, transfer, and installation costs.

Under **California law**, charitable contributions can be deducted by corporations up to 10% of its modified net income (computed without regard to contribution, built in gains and organizational expense deductions). California law limits the charitable contribution of property to the corporation's basis in the property. Prior California law allowed an augmented deduction for contribution of "qualified research property," similar to the federal augmented contribution of scientific property. To qualify for the California augmented deduction, the contribution had to be made between July 1, 1983, and December 31, 1993.

This bill provides stand-alone language that would essentially conform California law to the TRA of 1997 federal change in the augmented deduction for computer technology and equipment and would add a requirement that the donated property be used within California for educational purposes in any of grades K through 12. This bill would not conform to the augmented deduction of corporate contributions of inventory property for the care of the ill, the needy, or infants, and certain corporate contributions of scientific equipment.

Implementation Considerations

Procedural, schedule and instruction changes could be incorporated during the department's annual program changes.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses would depend on the amount of additional contribution deductions reported in any given year and the marginal tax rates of donors.

Based on the impact projected for the federal law change, conforming to this change would result in revenue losses of \$4 million annually.

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

BOARD POSITION

Pending.